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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

CHASOM BROWN, WILLIAM BYATT,
 JEREMY DAVIS, CHRISTOPHER
 CASTILLO, and MONIQUE TRUJILLO
 individually and on behalf of all similarly
 situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

Case No.: 4:20-cv-03664-YGR-SVK

**PLAINTIFFS' SUPPLEMENT IN
 SUPPORT OF THEIR MOTION FOR
 ORDER REQUIRING GOOGLE TO
 SHOW CAUSE WHY IT SHOULD
 NOT BE SANCTIONED FOR
 DISCOVERY MISCONDUCT**

The Honorable Susan van Keulen
 Courtroom 6 – 4th Floor
 Date: April 21, 2022

INTRODUCTION

Since Plaintiffs filed their motion for an order to show cause why Google should not be sanctioned (Dkt. 430), [REDACTED]

[REDACTED].¹ Plaintiffs' motion focused on Google's [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

As confirmed in meet and confers with counsel for Google, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

¹ Plaintiffs submit this supplement to give Google an opportunity to also address these issues as part of its response to Plaintiffs' motion, due on March 30, 2022, pursuant to the parties' stipulation and proposed order (Dkt. 474), and so Google may be prepared to address them at the April evidentiary hearing.

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[REDACTED]

As demonstrated in their moving papers, Plaintiffs have been severely prejudiced by Google's discovery misconduct. But for Google's pattern of nondisclosure, Plaintiffs could have (1) sought to ensure preservation of this key data at the outset of this case, and (2) completed the Special Master data productions far earlier and more efficiently. In addition, (3) Plaintiffs were entitled to all of the [REDACTED] and to schedule depositions based on those documents. Plaintiffs respectfully request that the Court issue appropriate sanctions against Google, as Plaintiffs requested in their moving papers.

SUPPLEMENTAL FACTS

[REDACTED]

² [REDACTED]

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[REDACTED]

[REDACTED] Ex. 1, GOOG-BRWN-00536949.³

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ¶ 7.

[REDACTED]

[REDACTED] . ¶ 9. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ¶ 10. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ¶ 11.

[REDACTED]

[REDACTED]

[REDACTED] ¶ 13 & Ex. 2. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] See Ex. 3, Sadowski Tr. 71:8-23. [REDACTED]

[REDACTED]

³ Except where otherwise noted, all exhibit and paragraph references in this submission are to the Second Declaration of Mark C. Mao in Support of Plaintiffs' Request for an Order to Show Cause, which is filed concurrently herewith.

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[REDACTED]

[REDACTED]

[REDACTED]

Despite Plaintiffs' multiple demands and meet and confer efforts, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].⁴ ¶ 18.

On March 11 (following the Rule 30(b)(6) deposition), [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ¶ 19.

[REDACTED]

[REDACTED] ¶ 18. [REDACTED]

[REDACTED] ¶¶ 21-22. [REDACTED]

[REDACTED]

[REDACTED] *See id.*; Dkt. 430-21. [REDACTED]

[REDACTED]

[REDACTED]

⁴ [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED] ¶ 22. [REDACTED]
4 [REDACTED] ¶ 22. [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED] ¶ 22.
9 [REDACTED]
10 [REDACTED] ¶ 23. [REDACTED]
11 [REDACTED] ¶ 23.
12 [REDACTED]
13 [REDACTED] ¶ 30. [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

SUPPLEMENTAL ANALYSIS

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18 The Court's November 12 Order was clear. Dkt. 331. Google was required to identify all
19 relevant logs and sources, i.e., "the tools to identify class members using Google's data." Dkt. 331
20 at 4. Google has not done so. And Google's refusal to comply has created enormous inefficiencies
21 and prejudiced Plaintiffs' ability to obtain and seek preservation of relevant discovery. Plaintiffs'
22 motion for an order to show cause was focused on the [REDACTED] But it now
23 appears that Google has also been [REDACTED]

24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED] See Dkt. 430-21. [REDACTED]
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[REDACTED]

[REDACTED] ¶ 20. [REDACTED]

[REDACTED]

[REDACTED] ¶ 21. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] See Dkt. 430-1 ¶ 19.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ¶ 24.

[REDACTED]

[REDACTED] On March 8, pursuant to this Court's

order, Plaintiffs deposed Google employee Mandy Liu, as she is one of the employees [REDACTED]

[REDACTED] Ex. 4, Liu Tr. 15:2-8. [REDACTED]

[REDACTED]

[REDACTED] Ex. 4, Liu Tr. 19:24-20:8. [REDACTED]

[REDACTED] Ex. 4, Liu Tr. 41:23-

42:12. [REDACTED] ¶ 28.

[REDACTED] ¶ 28. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Ex. 3, Sadowski Tr. 91:2-8.

[REDACTED]

[REDACTED]

¶ 29.

Google chose not to do so, which has severely prejudiced Plaintiffs.

Discovery is now closed. And yet Plaintiffs still do not have answers to multiple questions:

Had this information been fully and timely disclosed, the parties could have had an informed discussion about preservation to ensure that Google did not delete relevant data. Plaintiffs have now been deprived of that opportunity and data.

CONCLUSION

Plaintiffs respectfully request that the Court consider these issues in connection with the upcoming evidentiary hearing and thereafter issue appropriate sanctions against Google.

Dated: March 16, 2022

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By /s/ Mark C. Mao

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